

Supreme Court

No. 2014-152-M.P.

Debra Bacon et al. :

v. :

Town of Coventry Board of Canvassers. :

ORDER

This petition for writ of mandamus came before the Court for oral argument on June 10, 2014. On February 28, 2014, the councilman who represented district five in the Town of Coventry's town council tendered his resignation fourteen months into what would have been a four-year term, leaving vacant a seat on the five-member council that has yet to be filled. The next regularly scheduled election will take place in November 2014.¹ Section 3.06 of the Coventry Town Charter (the charter) requires that, if a vacancy on the town council shall occur six months or more prior to the next regular election, the town clerk shall call a special election.² Section 3.06 further requires that, if by the thirtieth day after the vacancy occurs the town clerk has not called the special election, the board of canvassers shall call such special election within forty-five days of the vacancy.

On the day that district five's council seat became vacant—more than six months prior to the next regularly scheduled election—Debra Bacon filed a request with the board of canvassers seeking a special election to fill the vacant council seat. The town solicitor, relying on a misprint

¹ The district five council seat would not have been on the ballot for the regularly scheduled November 2014 election but for the vacancy.

² Due to a misprint in the charter, § 3.06 as currently published provides for a special election for a town council vacancy only if the vacancy occurs twelve months or more prior to the next regularly scheduled election. Both parties agree that § 3.06 should state that a special election for a town council vacancy is required if the vacancy occurs six months or more prior to the next regular election.

in the charter that called for a special election only if the vacancy occurs more than twelve months (not six months) prior to the next regular election, advised that a special election was not required and advised the council to appoint a member to fill the vacancy. The council was unable to agree upon a successor to fill the vacant seat. After the board of canvassers conducted a hearing at which it declined to order a special election, the petitioners (Debra Bacon and Nancy Sullivan) petitioned this Court to issue a writ of mandamus pursuant to G.L. 1956 § 17-24-1 directing the board of canvassers to call for a special election forthwith.

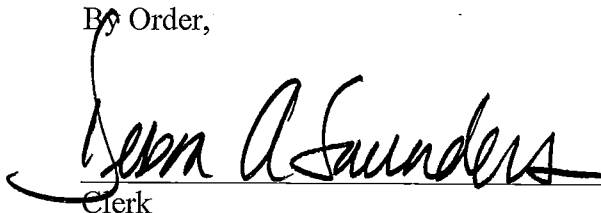
Upon our careful review of the petition and the memoranda and arguments submitted by counsel, the Court concludes that the petitioners have established a clear legal right to the relief they seek, the respondents have a ministerial duty to perform as requested without discretion to refuse, and, in the circumstances here presented, the petitioners have no adequate remedy at law.

Accordingly, the Court directs that the following Order shall enter:

1. The petition for a writ of mandamus is hereby granted.
2. The Town of Coventry board of canvassers is directed to call a special election in accordance with § 3.06 of the Coventry Town Charter.

Entered as an order of this Court on this 10th day of *June* 2014.

By Order,


Clerk